

ORIGINAL

RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

AUG 22 1996

Federal Communications Commission  
Office of Secretary

In the Matter of )

)  
Rulemaking to Amend Parts 1, 2, 21, and 25 )  
of the Commission's Rules to Redesignate )  
the 27.5 - 29.5 GHz Frequency Band, to )  
Reallocate the 29.5 - 30.0 GHz Frequency )  
Band, to Establish Rules and Policies for )  
Local Multipoint Distribution Service and )  
for Fixed Satellite Services )

CC Docket No. 92-297

DOCKET FILE COPY ORIGINAL

JOINT REPLY COMMENTS OF THE ASSOCIATION OF AMERICA'S PUBLIC  
TELEVISION STATIONS AND PUBLIC BROADCASTING SERVICE

Marilyn Mohrman-Gillis  
Lonna M. Thompson  
ASSOCIATION OF  
AMERICA'S PUBLIC TELEVISION  
STATIONS  
1350 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 887-1700

Paula A. Jameson  
Gregory Ferenbach  
PUBLIC BROADCASTING  
SERVICE  
1320 Braddock Place  
Alexandria, Virginia 22314  
(703) 739-5063

August 22, 1996

No. of Copies rec'd  
List ABCDE

0410

RECEIVED

AUG 22 1996

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Rulemaking to Amend Parts 1, 2, 21, and 25 ) CC Docket No. 92-297  
of the Commission's Rules to Redesignate )  
the 27.5 - 29.5 GHz Frequency Band, to )  
Reallocate the 29.5 - 30.0 GHz Frequency )  
Band, to Establish Rules and Policies for )  
Local Multipoint Distribution Service and )  
for Fixed Satellite Services )

To: The Commission

JOINT REPLY COMMENTS OF THE ASSOCIATION OF AMERICA'S PUBLIC  
TELEVISION STATIONS AND THE PUBLIC BROADCASTING SERVICE

The Association of America's Public Television Stations ("APTS") and the Public Broadcasting Service ("PBS") submit their joint reply comments in response to the comments filed regarding the Commission's First Report and Order and Fourth Notice of Proposed Rulemaking, CC Docket No. 92-297 ("NPRM"), in which the Commission adopted rules for the development of Local Multipoint Distribution Services ("LMDS") in the 28 GHz band and proposed extending LMDS into the 31 GHz band.

As detailed in earlier APTS/PBS filings in this proceeding, the proposed LMDS spectrum offers great potential in facilitating the distance learning and other educational services now offered by public television stations. The two-way broadband capacity of LMDS would allow an efficient delivery system for the

interactive video and data network of educational services made available by public broadcasting stations to schools, libraries, and other learning centers.<sup>1</sup>

As set forth in their most recent comments in this proceeding, APTS/PBS remain concerned that, unless the Commission requires LMDS licensees to offer LMDS capacity at preferential rates for educational uses, noncommercial educational entities will be denied access to LMDS services because they cannot compete financially against commercial interests under the FCC auction rules. APTS and PBS hope that the Commission will continue to recognize the significant opportunities that LMDS offers to educational telecommunications providers and that the Commission will adopt LMDS service rules that provide for educational uses of LMDS.

APTS and PBS embrace the Commission's apparent recognition of the importance of providing educational access to telecommunications services, including LMDS. As foreseen by Chairman Hundt, the very services that LMDS promises to offer, the "high-quality educational courseware, video programs and on-line services," are essential components of the educational services that must

---

<sup>1</sup> See APTS and PBS Joint Comments, filed March 16, 1993; Joint Reply Comments, filed April 15, 1993; Response to the FCC's Public Notice on Establishment of a Negotiated Rulemaking Advisory Committee, filed March 21, 1994; Joint Comments, filed September 7, 1995; and, Joint Comments on the Fourth Notice of Proposed Rulemaking, filed August 12, 1996. See also the Educational and Public Telecommunications Entities' filing in the Negotiated Rulemaking process, Recommendations for Assurance of Access by Educational and Public Telecommunications Entities in the Event That Spectrum Auctions Are Used For Award of LMDS Licenses, NRMC-111, included in the Addenda to the Report of the LMDS/FSS 28 GHz Band Negotiated Rulemaking Committee, September 23, 1994.

In addition to APTS and PBS, numerous educational parties have participated throughout this proceeding, including University of Texas and the Joint Educational Parties (American Council on Education, Commission on Information Technologies of the National Association of State Universities and Land Grant Colleges, Instructional Telecommunications Council of the American Association of Community Colleges, Arizona Board of Regents for Benefit of the University of Arizona, Alliance for Higher Education, Iowa Public Broadcasting Board, University of Maine of Augusta, University of Wisconsin System, Washington State University, South Carolina Educational Television Commission, and Ana G. Mendez Educational Foundation), Troy State University, University of California, and Western Interstate Commission for Higher Education.

be more widely available to classrooms across the country.<sup>2</sup> As Commissioner Chong so aptly expressed, "LMDS can make a difference. LMDS has a unique opportunity as a wireless provider to be a part of helping prepare our students for employment in the Information Age of the future."<sup>3</sup> Commissioner Chong specifically noted that LMDS offers great potential to assist in providing interactive distance learning opportunities that are so important in our nation's educational processes, because "(d)istance learning is very cost effective and could greatly enhance education throughout America, especially for those living in rural or remote areas."<sup>4</sup>

As noted by the Commission in the ongoing proceeding on the Federal-State Joint Board on Universal Service, stemming from the mandates of the Telecommunications Act of 1996, interactive facilities enable students and teachers to access information and communicate with others beyond their schools. As the Commission realizes, "(M)odern two-way, interactive capabilities will not only enable users at schools, libraries and rural health care facilities to access information, but also give students the ability to participate in educational activities at other schools, including universities," and, additionally, will "allow students, teachers, librarians and rural health care providers to consult with colleagues or experts at other institutions."<sup>5</sup> It is essential that the

---

<sup>2</sup> Speech by Chairman Reed Hundt to Consortium for School Networking, March 18, 1996, at 5.

<sup>3</sup> Speech by Commissioner Rachelle Chong to Telestrategies' Wireless Broadband Conference, July 16, 1996, at 8.

<sup>4</sup> Id. at 9.

<sup>5</sup> Notice of Proposed Rulemaking and Order Establishing Joint Board, CC Docket No. 96-45, released March 8, 1996, at paragraph 72.

Commission realize the important contribution that LMDS will offer to these educational processes.

In particular, APTS and PBS urge the Commission to adopt LMDS service rules that are as flexible as possible to ensure noncommercial entities access to LMDS. The rules should provide for flexible subleasing by LMDS operators and preferential nonprofit rates, so that public broadcasters and other educators may be afforded the opportunity to use LMDS technology to provide educational services.

In this regard, APTS and PBS support the comments submitted by Cellularvision USA, Inc. in this proceeding. As the comments of Cellularvision make clear, if the Commission awards the 1.3 GHz of proposed LMDS spectrum in a single block and allows any prevailing LMDS licensee who chooses not to use the full 1.3 GHz to sublease excess LMDS capacity to third parties, significant public interest benefits could be achieved. The Commission should seize this opportunity to encourage LMDS operators to lease excess capacity to nonprofit educational entities. The Commission could provide incentives for LMDS operators to offer excess capacity to educational providers at free or preferential rates by adopting rules that would provide, for example, for reduced annual service fees to LMDS operators in relation to that portion of their spectrum so used.

### **CONCLUSION**

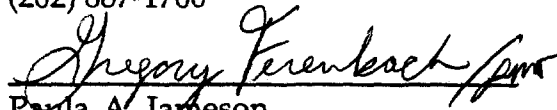
APTS and PBS continue to support the Commission's establishment of LMDS and the proposed additional LMDS allocation at 31 GHz. However, APTS and PBS are still awaiting assurance by the Commission that it will include in its

final LMDS service rules the means to provide for public television's use of LMDS for interactive educational services.

Respectfully submitted,



Marilyn Mohrman-Gillis  
Vice President, Policy and Legal Affairs  
Lonna M. Thompson  
Director, Legal Affairs  
ASSOCIATION OF AMERICA'S PUBLIC  
TELEVISION STATIONS  
1350 Connecticut Avenue, N.W.  
Suite 200  
Washington, D.C. 20036  
(202) 887-1700



Paula A. Jameson  
Senior Vice President, General Counsel &  
Secretary  
Gregory Ferenbach  
Deputy General Counsel  
PUBLIC BROADCASTING SERVICE  
1320 Braddock Place  
Alexandria, Virginia 22314  
(703) 739-5063

August 22, 1996